



U.S. Department of Justice

United States Attorney
Southern District of New York

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VIA ECF

Hon. Gregory H. Woods
United States District Judge
United States District Court
500 Pearl Street
New York, New York 10007

MEMORANDUM ENDORSED

Re: *Jiwani v. Emmel, et al.*, No. 21 Civ. 2458 (GHW)¹

Dear Judge Woods:

This Office represents the government in the above-referenced action in which the plaintiff seeks an order compelling U.S. Citizenship and Immigration Services (“USCIS”) to adjudicate a Petition for Alien Entrepreneur (Form I-526). On behalf of all parties, I write respectfully to jointly request a ninety-day extension of the time to respond to the complaint (*i.e.*, from July 29, 2022, 2022, to October 27, 2022). In addition, I write respectfully to jointly request that the initial pretrial conference presently scheduled for August 15, 2022, be rescheduled to the week of November 7, 2022 or thereafter (with a corresponding extension of time for the preconference submission).

We respectfully request this extension and adjournment because the parties are now attempting to resolve this matter without further litigation and need time to determine whether this is possible, and if so, next steps. As background, the Court previously granted a stay in this matter because statutory authorization related to the EB-5 Immigrant Investor Regional Center Program, under which the plaintiff filed the petition, expired and USCIS announced that, in general, it would not act on any pending Form I-526 petitions until further notice. *See* ECF Nos. 24, 28. On March 15, 2022, President Biden signed into law the Consolidated Appropriations Act, 2022. *See* <https://www.congress.gov/bill/117th-congress/house-bill/2471>. Division BB of this appropriations law constitutes the EB-5 Reform and Integrity Act of 2022, which contains authority for a new EB-5 Regional Center Program. Pub. L. No. 117-103, div. BB § 103. After reviewing the new legislation and considering how it affected the processing of EB-5 petitions that were pending at the time of the expiration of the prior Regional Center Program, USCIS recently resumed the processing of these petitions. *See* <https://www.uscis.gov/i-526>. On April 14, 2022, the Court granted the government’s request to lift the stay in this matter and for a forty-six-day extension of time to respond to the complaint. *See* ECF No. 30. Although the government had intended to move to dismiss this action, the parties believe that with additional time they may be

¹ Alissa Emmel, USCIS Investor Program Office Chief, is automatically substituted for former Chief Sarah Kendall as the defendant in this action. *See* Fed. R. Civ. P. 25(d).

able to resolve this matter without the need for briefing or a decision from the Court, such as through the ability the new program offers to file an Application to Register Permanent Residence or Adjust Status (Form I-485) while a Form I-526 is pending.

This is the parties' sixth request for an extension or adjournment; the Court granted the prior requests. *See* ECF Nos. 18, 20, 22, 30 and 33. Plaintiff joins in these requests.

I thank the Court for its consideration of this request.

Respectfully submitted,

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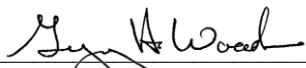
cc: Counsel of Record (via ECF)

Application granted. The deadline for defendant to answer or otherwise respond to the complaint is extended to October 27, 2022. The initial pretrial conference scheduled for August 15, 2022 is adjourned to November 9, 2022 at 3:00 p.m. The joint status letter and proposed case management plan described in the Court's March 23, 2021 order are due no later than November 2, 2022. The parties should not expect further extensions of time.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 34.

SO ORDERED.

Dated: July 28, 2022
New York, New York



GREGORY H. WOODS
United States District Judge